

App. No. 10/798149
Office Action Dated February 29, 2008

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REMARKS

Favorable reconsideration is respectfully requested in view of the following remarks. Applicants respectfully note the discrepancy between the listing of the pending claims and the text of the Office Action. Claims 1-13 are pending.

Claim rejections - 35 U.S.C. § 103

Claims 1-13 are rejected under 35 USC 102(e) as being anticipated by US 2004/0137320 (Komori et al.). Applicants respectfully traverse the rejection.

Claim 1 requires the battery case to include outer wall members that define (a) a battery case main body having a hole and (b) a lid for closing the hole. Claim 1 further requires an area of the outer wall members occupied by the first portion, which is made of a metal or a laminate of a metal and a resin, to be 20% or more. Claim 1 also requires the area of the outer wall members occupied by the second portion, which is made of a resin without metal present, to be 90% or less. These features required by claim 1 allow the nickel metal hydride storage battery to suppress long-term deterioration by controlling the amount of hydrogen permeating a battery case.

Komori is directed to an alkaline storage battery that addresses the following issue as presented in paragraph [0005]: "in a nickel-metal hydride battery using a hydrogen-absorbing alloy, when the amount of the hydrogen in the battery case is reduced by the hydrogen permeating through the battery case, the capacity balance between the positive electrode and the negative electrode is broken, which may deteriorate the characteristics significantly."

Komori's approach to addressing the above issue is to have a configuration in which the surface of the battery is coated with a resin having a low hydrogen permeability coefficient as described in paragraph [0008]. Komori further discloses that a metal layer may be used to suppress hydrogen gas or the like from permeating through the battery case to the outside, so that an alkaline storage battery having reduced deterioration of the battery characteristics can be obtained (see paragraph [0018]). It can be clearly understood from this description that Komori strives to completely suppress, as opposed to control, hydrogen gas from permeating to the outside.

The rejection contends that Komori teaches in paragraph [0050] and Figure 4 an area of the outer wall members occupied by the first portion, which is made of a metal or a laminate of a

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metal and a resin, to be 20% or more, and an area of the outer wall members occupied by the second portion, which is made of a resin without metal present, to be 90% or less. However, nothing in the reference teaches or even suggests the area ratios of the first and second portions as required by claim 1. Figure 4 does not even show a metal layer. Although Figure 6 of the reference shows a metal layer, it can be clearly understood from paragraphs [0008] and [0018] of the reference that the portions with and without the metal layer are not configured as required by claim 1. As aforementioned, claim 1 has a configuration to control, as opposed to completely suppress hydrogen gas from permeating to the outside. Accordingly, claim 1 and the dependent claims are not anticipated by Komori for at least these reasons.

Claims 1-13 are rejected under 35 USC 102(a) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over JP 2004022454 (Soda). The reference has an effective prior art date of January 22, 2004, which is subsequent to the priority date for the present application. Therefore, the reference is not available as prior art and the rejection is moot. Applicants are not conceding the correctness of the rejection. A verified translation of the priority application was submitted on February 24, 2006.

Favorable reconsideration and withdrawal of the rejection are respectfully requested.

In view of the foregoing, favorable reconsideration in the form of a notice of allowance is requested. Any questions or concerns regarding this communication can be directed to the attorney-of-record, Douglas P. Mueller, Reg. No. 30,300, at (612) 455.3804.

Respectfully Submitted,

Dated: May 28, 2008



A handwritten signature in black ink, appearing to read "Curtis B. Hamre".

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